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 3PL SYSTEMS, INC.

**UNITED STATES DISTRICT COURT  
 CENTRAL DISTRICT OF CALIFORNIA**

WALTER L. MITCHELL, III,  
 an individual,

Plaintiff,

v.

3PL SYSTEMS, INC., a California  
 Corporation,

Defendant.

Case No.: SACV11-00534 AG(ANx)  
 Hon. Andrew J. Guilford

**3PL SYSTEMS, INC.'S REPLY TO  
 CROSS-DEFENDANTS' OBJECTIONS  
 TO BILL OF COSTS**

**Hearing date:** May 9, 2013  
**Time:** 10:00 a.m.

3PL SYSTEMS, INC., a California  
 corporation,

Cross-Complainant,

v.

WALTER L. MITCHELL, III, an  
 individual, JONATHAN LANSAGAN,  
 an individual, CHRISTOPHER  
 VINCIGUERRA, an individual,  
 TRINNOS TECHNOLOGY LLC, a  
 California Limited Liability  
 Corporation, and ROES 1 – 10,  
 inclusive,

Cross-Defendants.

**Complaint filed:** April 7, 2011  
**Trial Date:** November 6, 2011  
**Judgment Entered:** April 10, 2013

## **I. REPORTERS' TRANSCRIPT COST**

In good faith, 3PL will withdraw its requests for costs of reporters' court transcripts.

## **II. DEPOSITIONS - EXPERT WITNESS FEES**

L.R. 54-3.5(c) allows reasonable witness fees paid to a deponent, including fees actually paid to an expert witness deponent pursuant to FRCP 26(b)(4)(E). Here, 3PL paid Mr. Nolte \$1,980.00 for his fee in attending an expert witness deposition. *See* Declaration of Janet S. Park in Support of 3PL's Application to Clerk to Tax Costs ("Park Decl.") ¶ 8, Exhibit F.

Cross-Defendants mistakenly argue that such a fee should be reduced to a statutory witness fee, but the statutory amount pertains only to fees paid to a trial witness. L.R. 54-3.5(c) ("However, such fees do not include expert witness fees paid to a **trial** witness in excess of the statutory witness fee...."). 3PL did not pay Mr. Nolte to attend trial, rather 3PL paid Mr. Nolte to attend a **deposition**. Deposition fees are allowed, and should not be reduced.

## **III. REPRODUCTION OF DOCUMENTS - TRIAL EXHIBIT COSTS**

At trial, only one version of trial exhibits was to be used, and so the parties agreed to split the cost of copying four (4) sets of trial exhibits for use at trial - one set for the witness stand, one set for the judge, and one for each counsel table. The total cost of copying four sets of trial exhibits (3873 pages per set) was \$2,808.40. Park Decl. ¶ 9, Exhibit G. The prevailing party is entitled to the **full** cost of copying of trial exhibits. *See* L.R. 54-3.10(b) ("The cost of copies of documents or other materials admitted into evidence...."). Here, Cross-Defendants have already paid for half of the amount. 3PL Systems, Inc. is entitled to the other half, which 3PL actually paid, in the amount of \$1,404.20.

## **IV. FEES FOR SERVICE OF PROCESS**

Under L.R. 54-3.2, fees for service of subpoenas pursuant to FRCP 45 are allowed. Cross-Defendants give no evidence showing why service of process for

subpoenas should be “\$100 per service.” Here, 3PL paid for service of subpoenas to 18 different entities, located in several different states, with service fees ranging from \$47.00 to \$390.00. *See* Park Decl. ¶ 4, Exhibit B.

As the prevailing party, 3PL is entitled to **full** costs of service of process, rather than “reasonable” costs. L.R. 54-3.2 does not include the word “reasonable” and thus does not limit fees for service of process to a subjective “reasonable” amount. (Compare L.R. 54-3.5, where the fees are limited by the word “reasonable”). No reduction should be taken for 3PL’s subpoena costs.

## V. CONCLUSION

3PL’s current proposed costs are as follows:

Fees for service of process	\$5,443.60
Reporter’s transcripts	\$0.00
Depositions	\$11,465.56
Witness Fees	\$91.70
Docket fees	\$25.00
Certification, exemplification and reproduction of documents	\$1,621.95
<b>Total</b>	<b>\$18,647.81</b>

DATED: May 6, 2013

BROWN, WEGNER & BERLINER LLP

By: /s/ Janet S. Park

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 Matthew K. Wegner  
 Janet S. Park

Attorneys for Defendant & Cross-Complainant  
 3PL SYSTEMS, INC.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service of documents are being served with a copy of the foregoing document and its attachments and accompanying documents via the Court's CM/ECF system per Local Rules.

/s/ Janet S. Park  
JANET S. PARK